



#8/7R
08/07/03

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TECH CENTER 1600/2900

JUL 31 2003

RECEIVED

In re application of

Docket No: A8174

CUMMINGS, Gary I., et al.

Appln. No.: 09/988,702

Group Art Unit: 1616

Confirmation No.: 9095

Examiner: Neil S. Levy

Filed: November 20, 2001

For: CHEMICALLY STABLE, INSECTICIDALLY ACTIVE
PHOSPHOROAMIDOTHIOATE PELLET COMPOSITIONS AND METHODS FOR
THEIR MANUFACTURE

TERMINAL DISCLAIMER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned, on behalf of the petitioner, Valent USA Corporation and Arvesta Corporation (collectively "Assignees"; Arvesta having been known as Tomen Agro, Inc. at the time of the Assignment), represents that they are the owners of the entire right, title and interest of U.S. Application No. 09/259,300, filed on March 1, 1999 for CHEMICALLY STABLE INSECTICIDALLY ACTIVE PHOSPHOROAMIDOTHIOATE PELLET COMPOSITIONS AND METHODS FOR THEIR MANUFACTURE by virtue of an Assignment from all of the inventors thereof recorded on November 12, 1999 at Reel 010376, Frame 0212, now issued as U.S. Patent 6,337,323 B2, as well as the entire right, title and interest in the above-captioned U.S. Application No. 09/988,702 by virtue of the same Assignment.

Terminal Disclaimer

U.S. Patent Application Ser. No.: 09/988,702

Petitioner hereby certifies that the above-mentioned Assignment has been reviewed and to the best of petitioner's knowledge and belief, title rests jointly with Assignees who are seeking to take this action.

Petitioner hereby disclaims the terminal part of any patent granted on the above-captioned U.S. Application No. 09/988,702 which would extend beyond the expiration of the full statutory term as presently shortened by any terminal disclaimer of U.S. Patent 6,337,323 B2, and hereby agrees that any patent so granted on the above-captioned U.S. Application No. 09/988,702 shall be enforceable only for and during such period that the legal title to U.S. Patent 6,337,323 B2 shall be the same as the legal title to said patent issuing from the above-captioned U.S. Application No. 09/988,702, this agreement to run with any patent granted on the above-captioned U.S. Application No. 09/988,702 and to be binding upon the grantee, its successors or assigns.

Petitioner does not disclaim any terminal part of any patent granted on the above-captioned U.S. Application No. 09/988,702 prior to the expiration date of the full statutory term as presently shortened by any terminal disclaimer of U.S. Patent 6,337,323 B2 in the event that U.S. Patent 6,337,323 B2 later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a), has all claims cancelled by a Reexamination Certificate, or is otherwise terminated prior to the expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

Terminal Disclaimer

U.S. Patent Application Ser. No.: 09/988,702

The undersigned whose signature and title appear below is empowered to act on behalf of
petitioner.

SUGHRUE MION, PLLC
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Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: July 28, 2003

Respectfully submitted,

Bruce E. Krane
Mark Boland / *Reg. No. 33,725*
Mark Boland
Registration No. 32,197



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SUBMISSION OF TERMINAL DISCLAIMER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is a Terminal Disclaimer in the above-identified application. A check in the amount of \$110.00 is attached. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this Submission is attached.

Respectfully submitted,

Lee C. Wright

Lee C. Wright Reg No 41,441

✓ Mark Boland
Registration No. 32,197

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23373

CUSTOMER NUMBER

Date: July 28, 2003

DATE: 08/07/03
 TO EXAMINER: N. LEVY
 PARALEGAL FELICIA ROBERTS

APPL. S.N.: 09, 988, 702
 ART UNIT: 1614
 MAILROOM DATE 07/28/02

AFTER FINAL YES ☐ NO ☒ NUMBER OF T.D(S). FILED 1

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next office action to notify applicant about the T.D. If you disagree with my analysis or have questions at all about the acceptability of the T.D., please see me or our Special Program Examiner. THIS MEMO IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE MAILED TO APPLICANT, NOR SHOULD A COPY BE LEFT IN FILE.

☒ The T.D. is PROPER and has been recorded. (See 14.23).

☐ The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below. (See 14.24).

☐ The recording fee of \$ _____ has not been submitted nor is there any pre authorization in the application file to charge to a deposit account. (See 14.26.07)

☐ Application Examiner has not processed T.D. fee. (See fee authorization).

☐ The T.D. does not satisfy Rule 321(b)(3) in that the person who has signed the T.D. has not stated his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent. (See 14.26 and 14.26.01).

☐ The T.D. lacks the enforceable only during the common ownership clause needed to overcome a double patenting rejection, Rule 321(c). (See 14.27, 14.27.01).

☐ It is directed to a particular claim(s), which is not acceptable since "the disclaimer must be of a terminal portion of the term of the entire patent to be granted". MPEP 1490. (See 14.26, 14.26.02).

☐ The person who signed the terminal disclaimer:

☐ has failed to state his/her capacity to sign for the business entity. (See 14.28).

☐ is not recognized as an officer of the assignee. (See 14.29 and possibly 14.29.01).

☐ No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame specified as to where such evidence is recorded in the office. 37 CFR 3.73(b). (See 1140 O.G. 72). **NOTE:** This documentary evidence or the specifying of the reel and frame may be found in the T.D. or in a separate paper submitted by applicant. (See 14.30).

☐ No "statement" specifying that the evidentiary documents have been reviewed and that, to the best of the assignee's knowledge and belief the title is in the assignee seeking to take action. 37 CFR 3.73(b). (See 1140 O.G. 72) (See 14.31).

☐ The T.D. is not signed. (See 14.26, 14.26.3). or 14.26.03 if TD is not signed by all the owners.

☐ Attorney not of record in oath/decl. or a separate paper filed appointing a new or associate attorney. (See 14.29.01).

☐ The serial number of the application (or the number of the patent) which forms the basis for the double patenting is missing or incorrect. (See 14.32).

☐ The serial number of this application (or the number of the patent in reexam or reissue case(s) being disclaimed is missing or incorrect. (See 14.26, 14.26.04 or 14.26.05).

☐ The period disclaimed is incorrect or not specified. (See 14.27, 14.27.2 or 14.27.3)(For Samples 14.27.04 and 14.27.05)

☐ Other: _____

☐ Suggestion to request refund of \$ _____. (See 14.35, 14.36).

EXAMINER NOTE: IF APPLICATION IS IN CONDITION FOR ALLOWANCE ANY OF THE ABOVE INFORMALTIES MAY BE FAXED IN TO THE GROUP

FOR SAMPLE TERMINAL DISCLAIMERS AND CERTIFICATES:

- ☐ Sample of a TD over a pending application and assignee Certificate (See 14.37).
- ☐ Sample of a TD over a prior patent and assignee Certificate (See 14.38).
- ☐ Sample Assignee Certificate under 37 CFR 3.73 (b) (See 14.39)